



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

September 17, 2022

MEMORANDUM

FROM: Clifford Villa /s/ **Clifford J. Villa, 9/16/2022**
Senior Advisor

TO: Barry Breen
Acting Assistant Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and have been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest or a personal or business relationship. I also have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by the criminal financial conflict of interest law, 18 U.S.C. § 208(a), I may not participate personally and substantially in any particular matter¹ having a direct and predictable effect on my financial interests, or the financial interests of a person or entity whose financial interests are imputed to me, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption as outlined in 18 U.S.C. § 208(b)(2). The interests of the following persons are imputed to me: a spouse and minor child; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner, or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been advised by OGC/Ethics that I have a financial interest in **the University of New Mexico School of Law** from which I have taken a two-year, unpaid leave of absence, until August 15, 2024. Therefore, I may not participate personally and substantially in any particular matter that, to my knowledge, has a direct and predictable effect on the financial interests of the law school unless I first obtain a written waiver or my participation is permitted by a regulatory exemption. One of these exemptions allows me, during the term of my leave of absence from an

¹ A "particular matter" includes only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons. It does not, however, cover consideration or adoption of broad policy options directed to the interests of a large and diverse group of persons. The particular matters covered by this part include a judicial or other proceeding, application or request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest. See 5 C.F.R. § 2640.103(a)(1).

institution of higher learning, to participate in certain matters of general applicability, such as rulemaking, as long as the matter does not have a distinct effect on the institution other than as part of class. *See generally*, 5 C.F.R. § 2640.203(b).

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

In addition, pursuant to the federal impartiality regulations, I have a “covered relationship” with the **University of New Mexico School of Law** for the period of my leave of absence and for one year thereafter. *See* 5 C.F.R. 2635.502(a). Therefore, I may not participate in a particular matter involving specific parties in which the law school is a party or represents a party during the period of my recusal, unless I am authorized to participate by OGC/Ethics pursuant to the standards set forth in 5 C.F.R. § 2635.502(d).

DIRECTIVE AND CONCLUSION

To avoid participating in matters from which I am recused, please direct them to Carlton Waterhouse, the Deputy Assistant Administrator, without my knowledge or involvement. Should this recusal have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will revise my recusal statement if my circumstances change, to include a change in my financial interests, outside personal or business relationships, or my EPA duties, and will provide a copy to you and the Ethics Office.

cc: Carlton Waterhouse, Deputy Assistant Administrator
Justina Fugh, Director, Ethics Office

From: [Mosley, Ferne](#)
To: [Villa, Clifford](#)
Subject: RE: Request for approval of outside activities
Date: Tuesday, September 20, 2022 9:56:00 AM
Attachments: [Which lane are you in-official v personal capacity.pdf](#)

Hi, Cliff - sorry for the delay; Justina said we can approve you to engage in these in your personal capacity. A few guidelines to remember and please review the attachment:

1. You may only refer to your EPA title as part of general biographical information along with other information about your professional and educational career (at least 3), and you may not give your EPA position more prominence than other aspects of your experience.
2. You should give a disclaimer that you are appearing in your personal capacity and not as a representative of the EPA or the federal government and that the views you are expressing are your own and not those of the Agency or the federal government;
3. You must use annual leave unless your supervisor approves a small amount of administrative leave for professional development;
4. you may not use non-public information that you learn from your EPA position
5. you must report travel reimbursements and related expenses paid for by a non-federal source on your 2023 financial disclosure report in the following manner: if there is a travel item valued at \$166 or more, you add those and if, in the aggregate, the total amount of expenses is \$415 or more from a single source, you must report the travel reimbursement. For example, if your hotel is \$175, airfare is \$300, parking is \$15, you report the hotel and airfare which is \$475. If any item is less than \$166, don't add that to reach the \$415.
6. You may not accept an honorarium or any other payment to compensate you for your time.
7. Any tangible gifts must meet a gift exclusion or exception before you can accept it, e.g., a card or plaque or other item with little intrinsic value meant solely for presentation is acceptable; a crystal vase, a watch, or other item to thank you may not be accepted unless the value is \$20 or less. You may always return the item upon your return to avoid refusing it on-the-spot.

Please let me know if you have you have any questions.

Just note that your outside activities must be affirmatively approved before you may engage in the activity per the supplemental ethics regulation; even though it may take us awhile to get back to you (which it usually doesn't), you can't proceed with the activity unless it is approved.

Sincerely, Ferne

Ferne L. Mosley, Attorney-Advisor

Office of the General Counsel/Ethics Office
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW WJC Bldg, (North)
Washington, DC 20460
202-306-2998 (mobile)
202-564-8046 (desk)

From: Villa, Clifford <Villa.Clifford@epa.gov>
Sent: Tuesday, September 20, 2022 8:16 AM
To: Mosley, Ferne <mosley.ferne@epa.gov>
Subject: FW: Request for approval of outside activities

Good morning. I haven't heard anything back on this and need to make travel plans today ahead of actual travel next week. If any update on your end, it would be much appreciated. Otherwise, I'll proceed to make travel arrangements today in anticipation of your response.

Many thanks,

Cliff

From: Villa, Clifford
Sent: Wednesday, September 14, 2022 11:39 AM
To: Mosley, Ferne <mosley.ferne@epa.gov>
Subject: RE: Request for approval of outside activities

Thanks, Ferne. I was hoping you would be able to respond shortly. Among other things, I need to make travel arrangements asap for the Michigan conference.

Cliff

From: Mosley, Ferne <mosley.ferne@epa.gov>
Sent: Wednesday, September 14, 2022 11:37 AM
To: Villa, Clifford <Villa.Clifford@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Waterhouse, Carlton <Waterhouse.Carlton@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: Request for approval of outside activities

Thanks, we will review the information with the appropriate parties and provide a response shortly.

Sincerely, Ferne

Ferne L. Mosley, Attorney-Advisor
Office of the General Counsel/Ethics Office
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW WJC Bldg, (North)
Washington, DC 20460
202-306-2998 (mobile)
202-564-8046 (desk)

From: Villa, Clifford <Villa.Clifford@epa.gov>
Sent: Wednesday, September 14, 2022 9:30 AM

To: Mosley, Ferne <mosley.ferne@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Waterhouse, Carlton <Waterhouse.Carlton@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: Request for approval of outside activities

Hi Ferne. In response to your guidance below, including the EPA regulations at 5 C.F.R. § 6401, this email serves as my request for approval from the EPA Deputy Ethics Official to participate in programs of environmental education, to include speaking as invited by colleges, universities, and graduate schools. In particular, within the next 12 months, I anticipate the following speaking engagements:

- University of Michigan Law School, September 29-30, 2022.
- College of Wooster, Wooster, OH. October 2022.
- University of Miami School of Law, February 2023
- University of Iowa College of Law, May 2023.

Specific responses to regulatory requirements at 5 C.F.R. § 6401(b) are provided below:

1. *Employee's name, grade, and title.* Clifford J. Villa, GS 15-1, Senior Advisor for Implementation
2. *Nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected.* Participating in programs of environmental education, to include delivering oral presentations with slides, speaking in my personal capacity, as invited by educational institutions and without compensation except for actual travel expenses.
3. *The name and business of the person or organization for which the work will be done.* Anticipated educational institutions in the coming year include the University of Michigan Law School, the College of Wooster, the University of Miami School of Law, and the University of Iowa College of Law.
4. *The estimated time to be devoted to the activity.* One hour for each presentation, plus travel time.
5. *Whether the service will be performed entirely outside of normal duty hours.* Speaking engagements may or may not be performed entirely outside of normal duty hours.
6. *The employee's statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.* No official duty time or Government resources will be used in connection with speaking engagements conducted entirely in my personal capacity.
7. *The basis for compensation (e.g., fee, per diem, per annum, etc.).* No fee or per annum will be collected. Actual travel expenses may be paid directly by the inviting institution or reimbursed afterwards.
8. *The employee's statement that he or she has read, is familiar with, and will abide by the restrictions described in 5 CFR part 2635 and § 6401.102.* I have.
9. *An identification of any EPA assistance agreements or contracts held by a person to or for*

whom services would be provided. I am not aware of any such agreements or contracts.

If you have any related questions, please let me know.

Sincerely,

Cliff Villa

Clifford J. Villa, Senior Advisor
Office of Land and Emergency Management
U.S. Environmental Protection Agency
Email: villa.clifford@epa.gov
Phone: (202) 981-4012

From: Mosley, Ferne <mosley.ferne@epa.gov>
Sent: Thursday, September 8, 2022 9:42 AM
To: Villa, Clifford <Villa.Clifford@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Waterhouse, Carlton <Waterhouse.Carlton@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: Outside activities

Hello, Cliff – thank you for contacting us. I don't see a copy of your prior requests in our shared drive and we've had several personnel changes over the years. You may send an email with the required information per the EPA supplemental ethics regulation, [5 CFR 6401](#), as stated here:

(b) **Form and content of request.** The employee's request for approval of outside employment shall be submitted in writing to his or her Deputy Ethics Official. The request shall be sent through the employee's immediate supervisor (for the supervisor's information) and shall include:

- (1) Employee's name, title and grade;
- (2) Nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
- (3) The name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next 6 months);
- (4) The estimated time to be devoted to the activity;
- (5) Whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);
- (6) The employee's statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;
- (7) The basis for compensation (e.g., fee, per diem, per annum, etc.);
- (8) The employee's statement that he or she has read, is familiar with, and will abide by the restrictions described in [5 CFR part 2635](#) and [§ 6401.102](#); and

(9) An identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.

Please let me know if you have any other questions.

Sincerely, Ferne

Ferne L. Mosley, Attorney-Advisor

Office of the General Counsel/Ethics Office
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW WJC Bldg, (North)
Washington, DC 20460
202-306-2998 (mobile)
202-564-8046 (desk)

From: Villa, Clifford <Villa.Clifford@epa.gov>

Sent: Thursday, September 8, 2022 7:06 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Mosley, Ferne <mosley.ferne@epa.gov>

Cc: Waterhouse, Carlton <Waterhouse.Carlton@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>

Subject: Outside activities

Hi Justina and Ferne. Thank you for all your assistance so far in ensuring compliance with federal ethics requirements concerning my recent return to EPA. As you know, I was appointed to the OLEM Immediate Office with a number of anticipated outside activities, including specific teaching, writing, and speaking commitments. Most immediately, as disclosed, I have committed to speaking at a conference on environmental justice at the University of Michigan Law School, Sept. 29-30, 2022. Again, I will be speaking in a personal capacity, not on behalf of the University of New Mexico, U.S. EPA, or any other entity. I will not be receiving honorarium, although I do anticipate the University of Michigan will cover travel expenses.

As I recall, to confirm compliance with applicable regulations at 5 C.F.R. § 6401.103, I need to prepare a short memorandum, sent through my immediate supervisor, for approval by the Deputy Ethics Official. I have prepared such memos in the past to support outside teaching and writing activities when I was in EPA Region 10. If you can possibly send me a copy of one of my prior memos on file or any other generic example, that would be very helpful. I will then discuss my anticipated activities and draft memo with my immediate supervisor before sending the memo to your office for approval.

If there is anything else, or in the alternative, that I should know or do to ensure compliance with federal ethics requirements, please let me know.

Sincere thanks,

Cliff Villa

Clifford J. Villa, Senior Advisor
Office of Land and Emergency Management

U.S. Environmental Protection Agency

Email: villa.clifford@epa.gov

Phone: (202) 981-4012

WHICH LANE ARE YOU IN?	
Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
<p>Generally ...</p> <ul style="list-style-type: none"> • Consistent with statutory authority and Agency or office mission and assigned duties. • Need supervisory approval to engage in the activity. • Cannot be compensated by an outside party. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> • You can use official time on the activity, consistent with supervisory approval. • You can use EPA resources including computer, copier, EPA email address or phone number, administrative support. • You cannot use non-public information. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> • Use your official title. • Depending on the level of review, you may need to include a disclaimer. <p>Social Media</p> <p>Relatively few employees are responsible for maintaining or using EPA's official social media posts. See EPA's policies on official use of social media.</p>	<p>Generally ...</p> <ul style="list-style-type: none"> • If what you want to do qualifies as an "outside activity" under EPA's supplemental ethics rules, you may need prior written approval from an ethics official. • You may not be compensated if the activity relates to official duty. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> • Refrain from engaging in personal activities on EPA time. Do not use your EPA badge, email address or other EPA identifiers when acting in your personal capacity. • Personal use of the EPA equipment is permitted only in accordance with EPA's limited personal use policy, which allows for <i>de minimis</i> use, but never for prohibited activities such as charitable fundraising, lobbying, political activity, compensated outside activity or illegal activities. • There is no expectation of privacy in the federal workplace or when using EPA equipment or resources. Remember, your alternate work location is considered federal workspace when you are on Flexiplace and the ethics rules apply the same when you work remotely as when you are in the office. • Do not use nonpublic information, which is any information gained through EPA employment that you know or should know has not been made available to the general public, is exempt from disclosure, or that has not been authorized for release. • You may not take pictures inside federal buildings (including private buildings leased by federal occupants; e.g., EPA Region 10) without the permission of the occupying Agency. 41 C.F.R. § 102-74.420.

WHICH LANE ARE YOU IN?

Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
	<p>Misuse of Position and Representing Back</p> <ul style="list-style-type: none"> • Avoid appearing to misuse your EPA position for your own personal gain or for the gain of others or to create the appearance that the federal government endorses your personal activities. <i>Avoid deliberate use of your EPA position or affiliation to bolster your personal position or to lend it greater or emphasized credence.</i> For example, you could carry a sign at an event that says “I love puppies.” You could even carry a sign that says, “Federal employee loves puppies.” But you should NOT carry a sign that says “EPA employee loves puppies.” • In your personal capacity, you cannot represent the interests of a third party back to the federal government, regardless of whether you are compensated. 18 U.S.C. §§ 203 & 205. For example, you could write a letter to your Senator, expressing your personal opinion about a proposed legislative action, but you could not write and sign a letter on behalf of a third party about the same proposed action. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> • You can reference your official title if it is one of at least three biographical details you provide and you make it clear that you are speaking in your personal capacity, not in your official capacity or on behalf of EPA. You might also need to include a disclaimer. • If you don’t mention your EPA position, you do not need to include a disclaimer. • If it is clear from the language or context of your speaking or writing that you are representing personal rather than Agency views, then you have addressed endorsement concerns, but you

WHICH LANE ARE YOU IN?

Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
	<p>still must be careful not to use your EPA position for private gain. See Misuse of Position, above, and OGE letter 10 x 1.</p> <p>Social Media</p> <ul style="list-style-type: none"> • The ethics rules apply to social media just as they do to other forms of communication. • Because there is no expectation of privacy in the federal workplace or when using EPA equipment or resources, <i>we recommend against using EPA equipment, server, etc. to access personal social media accounts.</i> • Do not use or post nonpublic information in personal social media accounts. • Because you are generally prohibited from taking photos inside federal office space, you, therefore also should not post such photos to your personal social media accounts. • The Office of Government Ethics has a terrific legal advisory on ethics and personal use of social media. <p>Fundraising</p> <ul style="list-style-type: none"> • Don't use your EPA position to further outside fundraising efforts. There are some restrictions when engaged in fundraising, even on personal time. 5 C.F.R. § 2635.808. • You can't ever personally solicit funds from a subordinate or from a "prohibited source," which is any entity or person who is doing business with EPA, seeks to do business with EPA or is regulated by EPA.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Revised Recusal Statement
DIMPLE
FROM: Dimple Chaudhary CHAUDHARY
Deputy General Counsel for Nationwide Resource Protection Programs
TO: Jeffrey Prieto
General Counsel

Digitally signed by
D MPLE CHAUDHARY
Date: 2022.09.06
15:17:50 -04'00'

I am updating my previously issued recusal statement dated April 27, 2021 to include my spouse's new employer, the law firm **Motley Rice**, and pending litigation in which the firm is representing parties before the Agency or is otherwise involved that may require my participation. The other aspects of my April 27, 2021 recusal remain unchanged and are incorporated in this document. I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **National Resources Defense Council**, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service, or until after January 20, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means that the meeting should include a multiplicity of parties. If, for example, there is "a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former

client.”¹ Such a meeting must also include a diversity of interests. Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

ATTORNEY BAR OBLIGATIONS

In addition to the pledge restrictions involving my former client, NRDC, I understand that I am bound by my bar rules and am obliged to protect the confidences of my former clients. I understand that I am restricted from switching sides in litigation in which I participated in or provided counsel or that is the same as or substantially related to the same specific party matter in which I previously participated personally and substantially, unless my bar provides for and I first obtain informed consent and coordinate with OGC/Ethics. Set forth below are the cases pending at EPA in which I participated and from which I am recused for the entirety of my tenure at EPA:

CASE NAME and/or SUBJECT MATTER	CITATION and/or DESCRIPTION:
Consent Decree Implementation of Agency’s failure to issue a worst-case spill regulation for non-transportation-related-substantial-harm facilities	<i>Environmental Justice Health Alliance for Chemical Policy Reform, NRDC, et al. v. EPA</i> , Case No. 19-cv-2516, SDNY
Challenge to Methylene chloride rule	<i>Labor Council for Latin America, NRDC, et al. v. EPA</i> , Case No. 19-1042, 2d Cir.
Challenge to use of tetrachlorvinphos on pets	<i>NRDC v. Wheeler</i> , Case No. 20-72794, 9th Cir.
Provided individual counseling to plaintiffs in Flint water crisis	<i>Walters v. Flint, EPA, et al.</i> , Case No. 17-10164, E.D. Mich.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest. I will remain vigilant and notify OGC/Ethics immediately should my financial interests change.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal ethics rules, I understand that I have a covered relationship with my spouse and my spouse's employer, the law firm **Motley Rice**. (I no longer have a covered relationship with his former employer, **Jenner and Block**). See 5 C.F.R. § 2635.502(b)(1)(ii) and (iii). I will recuse from participating in specific party matters in which my spouse or his employer is a party or represents a party, unless I am otherwise authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). To date, the following cases have been identified for which my recusal applies:

- *In re New Indy Emissions Litigation*, C/A No. 0:21-cv-01480-SAL (D. S.C.). The firm also represents intervenors in this case.
- *Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873*. EPA is not a named party in any pending suit but has a role in the litigation because it is a source for United States government document production.
- *Walters v. Flint, EPA, et al.*, Case No. 17-10164, E.D. Mich.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in particular matters from which I am recused, I have asked Jim Payne, the Deputy General Counsel for Environmental Media and Regional Law Offices, to assist in screening EPA matters directed to my attention. All inquiries and comments involving my recusals should be directed to him without my knowledge or involvement. If Jim determines that I am recused, then he will take action or refer it for action or assignment to another, without my knowledge or involvement.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Melissa Hoffer, Principal Deputy General Counsel
Marianne Engelman-Lado, Deputy General Counsel for Environmental Initiatives
Jim Payne, Deputy General Counsel for Environmental Media and Regional Law Offices
Elise Packard, Deputy General Counsel for Operations
Daniel Conrad, Acting Associate Deputy General Counsel
OGC Associate General Counsels
Regional Counsels
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Updated Recusal Statement **JENNIFER
MACEDONIA**

FROM: Jennifer Macedonia
Associate Deputy Assistant Administrator for Implementation

TO: Joseph Goffman
Principal Deputy Assistant Administrator

Digitally signed by JENNIFER
MACEDONIA
Date: 2022 09.27 18:18 58 -04'00'

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations. This recusal statement supersedes my August 18, 2021 recusal statement for my prior position as Deputy Associate Administrator for Policy.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any significant financial conflicts of interest. I will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **JLM Environmental Consulting** (my own consulting firm, now inactive) is a party or represents a party. Under the terms of the Ethics Pledge, this recusal also applies to the following clients whom I served in the two years preceding my appointment and lasts for two years from the date that I joined federal service, or until after June 1, 2023:

FORMER CLIENT
Duke University
Environmental Defense Fund
Meier Engineering Research

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with the **Climate Reality Project**. I may not participate in a particular matter involving specific parties in which they are a party or represents a party, unless I am authorized to participate by OGC/Ethics pursuant to 5 C.F.R. § 2635.502(d).

RECUSAL REGARDING MY SPOUSE

I understand that I am also precluded from participating personally and substantially in any determination, request or recommendation that specifically relates to or affects the salary or benefits of my spouse, **(b) (6)**, who works in the Office of Air Quality Planning and Standards. Therefore, pursuant to 18 U.S.C. § 208 and 5 C.F.R. § 2635.502, I will recuse myself from participating in any award, promotion or any other personnel or administrative matter that involves my spouse as a specific party.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

DIRECTIVE AND CONCLUSION

To avoid my participating in any of the matters from which I am recused, please refer those matters to the attention of **Ann Ferrio, Chief of Staff**, without my knowledge or involvement. Therefore, I should not be sent or copied on substantive emails, attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to OGC/Ethics.

In the event that my circumstances change, including changes to my financial interests, my personal or business relationships, or my EPA duties, then I will consult with OGC/Ethics and update my recusal statement accordingly.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Elias Carbonell, Deputy Assistant Administrator for Stationary Sources
Alejandra Nunez, Deputy Assistant Administrator for Mobile Sources
Ann (Campbell) Ferrio, Chief of Staff
Daniel Hopper, Deputy Chief of Staff
Eunjung Kim, Special Advisor
Cynthia Giles, Senior Advisor
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Marianne Engelman-Lado
Acting Principal Deputy Assistant Administrator

MARIANNE
ENGELMAN-LADO

Digitally signed by MARIANNE
ENGELMAN-LADO
Date: 2022.09.28 16:04:23
-04'00'

TO: Janet McCabe
Deputy Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations. This recusal statement supersedes my June 30, 2021 recusal statement for my prior position as Deputy General Counsel for Environmental Initiatives.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which a former employer or former client is a party or represents a party. Set forth in the charts below are my former employers and former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA.¹ I understand that my recusal with these entities will last for two years from the date that I joined federal service. This recusal will end **January 31, 2023**.

Former Employer
Vermont Law School Yale University Poverty & Race Research Action Council WE ACT for Environmental Justice African American Policy Forum Center for Public Representation

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters involving that former client for the duration of my ethics obligations.

Former Client ²
<p>Ashurst Bar/Smith Community Organization Californians for Renewable Energy Center for Whole Communities Citizens for Alternatives to Radioactive Dumping Clean Power Lake County Community Action Works Concerned Citizens of West Baden Community Earthjustice Friends of the Earth North Carolina Climate Solutions Coalition North Carolina Environmental Justice Network REACH Sierra Club St. Croix Environmental Association Limetree Bay SEA St. Francis Prayer Center Waterkeeper Alliance</p>

On April 14, 2021, EPA’s Designated Agency Ethics Official, in consultation with the Counsel to the President, granted me a limited waiver of the provisions of Section 1, Paragraph 2 of Executive Order 13989 for one of my former clients, the Natural Resources Defense Council (NRDC). Similarly, on June 24, 2021, EPA’s Alternate Designated Agency Ethics Official issued an impartiality determination with respect to my former client, NRDC, under 5 C.F.R. § 2635.502(d). I am now authorized to participate in specific party matters arising at EPA in which my former client, NRDC, is a party or represents a party, provided that I did not previously participate personally and substantially in that same matter for NRDC or any other party. *See Attachments.*

I have been advised by OGC/Ethics that, for the purposes of my pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”³ Should a question arise as to whether a specific forum qualifies as “open to all

² Natural Resources Defense Council (NRDC) is not included here as a “former client” because of the April 14, 2021 Ethics Pledge waiver that I received, as well as the June 24, 2021 impartiality determination. I was, however, recused from participating in specific party matters in which NRDC was a party from my entry into EPA until April 14, 2021, and I remain recused from any specific party matters in which NRDC is a party if I participated personally and substantially previously in that same matter.

³ *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

interested parties,” then I will consult with OGC/Ethics.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality standards, I understand that I have a covered relationship with my spouse and his employer, Northwell Health. *See* 5 C.F.R. § 2635.502(b)(1)(ii)-(iii). I will recuse from specific party matters where my spouse or Northwell Health is a party or represents a party, unless I am otherwise authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d).

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest. I will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

ATTORNEY BAR OBLIGATIONS

In addition to the pledge restrictions involving my former employers and clients, I understand that I am bound by my bar rules and am obliged to protect the confidences of my former clients. I understand that I am restricted from switching sides in litigation in which I participated in or provided counsel or that is the same as or substantially related to the same specific party matter in which I previously participated personally and substantially, unless my bar provides for and I first obtain informed consent and coordinate with OGC/Ethics. Set forth below are the cases pending at EPA in which I participated and from which I am recused for the entirety of my tenure at EPA:

CASE DESCRIPTION / SUBJECT MATTER	CASE CITATION
Litigation challenging EPA’s enforcement of Title VI.	<i>Californians for Renewable Energy v. EPA</i> , case no. 4:15-cv-03292-SBA
Freedom of Information Request regarding ECRCO’s docket.	EPA-2021-000375

Opposition to a Plantwide Applicability Limit permit decision.	In re: Limetree Bay Terminals, L.L.C. and Limetree Bay Refining, L.L.C., C.A.A. Appeals No.20-02M
Complaint alleging discrimination in violation of Title VI and 40 C.F.R. Part 7, related to the New Mexico Environmental Department's issuance of a treatment, storage, and disposal permit.	EPA File No. 09R-02-R6
Complaint alleging discrimination in violation of Title VI and 40 C.F.R. Part 7 related to the Texas Commission on Environmental Quality's failure to provide effective public notice and access to TCEQ's programs.	TCEQ 02NO-20-R6
Complaint alleging discrimination in violation of Title VI and 40 C.F.R. Part 7 related to the City of Flint's administration of the Safe Drinking Water act and failure to implement procedures for addressing compliance with EPA's non-discrimination regulation.	City of Flint 19RD-16-R5
Complaint alleging discrimination in violation of Title VI and 40 C.F.R. Part 7 related to Genesee County's administration of the Safe Drinking Water act and failure to implement procedures for addressing compliance with EPA's non-discrimination regulation.	Genesee County 18RD-16-R5
FOIA appeal of a request for records related to an EPA investigation of North Carolina's Department of Environmental Quality handling of CAFOs.	FOIA Appeal No. EPA-HQ-2020-001148

DIRECTIVE AND CONCLUSION

To avoid my participating in any of the matters from which I am recused, please refer those matters to the attention of **Kevin Bailey, Office Director of the Office of Resource Management and Communications**, without my knowledge or involvement. Therefore, I should not be sent or copied on substantive emails, attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to OGC/Ethics.

In the event that my circumstances change, including changes to my financial interests, my personal or business relationships, or my EPA duties, then I will consult with OGC/Ethics and update my recusal statement accordingly.

cc: Robin Collin, Senior Advisor to the Administrator for Environmental Justice
Matthew Tejada, Deputy Assistant Administrator
Lilian Sotolongo Dorka, Deputy Assistant Administrator
Kevin Bailey, Office Director, Office of Resource Management and Communications
Alison Cassady, Deputy Chief of Staff for Policy
Justina Fugh, Director, Ethics Office

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Limited Waiver from Section 1, Paragraph 2 of Executive Order 13989

FROM: James Payne **JAMES PAYNE**
Deputy General Counsel for Environmental Media and Regional Law Offices,
and Designated Agency Ethics Official

TO: Marianne Engelman-Lado
Deputy General Counsel for Environmental Initiatives

Digitally signed by JAMES
PAYNE
Date: 2021 04.14
13:21:48 -04'00'

Pursuant to the authority delegated under Section 3 of Executive Order 13989 (January 20, 2021), and after consultation with the Counsel to the President, I hereby grant you a limited waiver from the requirements of Section 1, paragraph 2 of the Executive Order. I certify that this limited waiver is necessary and in the public interest to permit you to participate in certain particular matters in which your former client, the National Resources Defense Council (NRDC), is a party or represents a party, provided that you did not previously participate personally and substantially in the matter with NRDC or any other party.

BACKGROUND

On January 20, 2021, President Biden signed Executive Order 13989, "Ethics Commitments by Executive Branch Personnel," which includes an Ethics Pledge. The Ethics Pledge imposes ethics requirements beyond federal ethics laws and regulations and attorney bar obligations. All individuals appointed to political positions on or after January 20, 2021 are required to sign the Ethics Pledge, which sets forth the "former client"¹ restriction at Section 1, paragraph 2:

I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

You entered federal service at EPA effective January 31, 2021 and received your initial

¹ A "former client" is defined as "any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to speeches or similar appearances. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services." Executive Order 13989, Section 2(l).

ethics training on February 4, 2021, the same day you signed the Ethics Pledge. You have properly recused yourself from participating in any particular matter in which your former employers or any of your former clients is a party or represents a party. The EPA has identified, however, an interest in having you work on particular matters involving one of your former clients – namely, NRDC -- for which you will require a pledge waiver as set forth in Section 3 of Executive Order 13989. Such waivers from the restrictions contained in Section 1, paragraph 2 may be granted upon certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. With the approval of the White House, the Acting Director of the Office of Management and Budget (OMB) has delegated to each executive branch Designated Agency Ethics Official the authority to exercise Section 3 waiver authority after consultation with the Counsel to the President.²

ANALYSIS

Your career has been devoted to civil rights and environmental justice. Prior to joining the Biden Administration, you directed an Environmental Justice (EJ) Clinic at Vermont Law School that trains students in community lawyering and civil rights enforcement in the environmental justice context, and also served as Lecturer at both the Yale University School of Public Health and the Yale School of the Environment, where you supervised interdisciplinary teams of law, environmental, and public health students working on climate justice issues.

Your experience also includes ten years as General Counsel at New York Lawyers for the Public Interest (NYLPI), a non-profit civil rights law firm, where you directed a legal and advocacy program addressing racial and ethnic disparities in access to health care, environmental justice, and disability rights. You began your legal career as a staff attorney at the NAACP Legal Defense and Educational Fund, Inc. (LDF), where you represented clients attempting to break barriers of access to health care and quality education. You recently served as co-chair of the Equity and Environmental Justice Working Group of Connecticut's Governor's Council on Climate Change, and as a board member of both WE ACT for Environmental Justice and the Center for Public Representation. You have lectured widely and taught graduate, law, and undergraduate level courses. You also hold a B.A. in government from Cornell University, a J.D. from the University of California at Berkeley, and an M.A. in Politics from Princeton University.

PREVIOUS INVOLVEMENT IN FOIA CASES WITH NRDC

During the two-year period prior to your federal appointment, on behalf of the EJ Clinic you directed (first at Yale University and then at Vermont Law School), you and co-counsel Southern Environmental Law Center submitted requests for certain EPA records pursuant to the Freedom of Information Act (FOIA). These FOIA requests were made on behalf of three client groups that included NRDC. This limited waiver applies only to NRDC.

² See Office of Government Ethics Legal Advisory, LA-21-04 (Feb. 18, 2021).

The requests asked for information related to EPA's Title VI of the Civil Rights Act of 1964 (Title VI) docket, including complaints, acknowledgments, jurisdictional decisions, referrals and any dispositive decisions. Upon release of EPA's responsive records, the student team under your supervision reviewed the documents and discussed legal options in consultation with co-counsel and at the direction of the clients. Approximately four FOIA requests were submitted on behalf of these client groups, the first of which was in 2017 while you were at Yale University. You received no compensation specifically for this FOIA-related work that was distinct from your salary provided by your employers for running and supervising a clinic and serving as faculty. Although there were follow-up conversations with employees in EPA's External Civil Rights and Compliance Office (ECRCO) within the Office of General Counsel (OGC), they were limited to the FOIA response. There have been no legal challenges, appeals or litigation related to these FOIA requests.

YOUR OFFICIAL DUTIES ON BEHALF OF EPA

OGC serves as the chief legal advisor to the EPA Administrator and implements the nation's environmental laws. OGC also provides legal counsel to EPA policymakers and represents the Agency in court challenges to agency actions. In your position as Deputy General Counsel for Environmental Initiatives, you have responsibilities within OGC for the External Civil Rights Compliance Office, the Civil Rights and Finance Law Office, and the Pesticides and Toxic Substances Law Office (PTSLO). PTSLO is responsible for legal issues and related litigation for the Office of Chemical Safety and Pollution Prevention (OCSPP) in connection with OCSPP's regulatory efforts addressing pesticides and toxic chemicals governed respectively by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). Similarly, PTSLO also provides legal support for OCSPP related to the Pollution Prevention Act (PPA) and the Toxics Release Inventory (TRI), the program under the Emergency Planning and Community Right-To-Know Act (EPCRA) that informs citizens about toxic releases in their communities. NRDC is frequently involved in these regulatory areas and is often named as a party to the litigation that PTSLO addresses.

In the position of Deputy General Counsel for Environmental Initiatives, your participation in the review and direction of substantive environmental legal matters under FIFRA, TSCA, and TRI is critical to PTSLO's effectiveness in these areas. Although EPA currently has two other political appointees in OGC, both have their own bar and pledge obligations to observe with respect to matters arising in PTSLO. Consequently, there is an overlap of recusals that is impinging the ability of OGC to interact with our political leadership in certain nationally significant issues related to public health and the environment that are important priorities of the Administration. With respect to the other OGC political appointees, one is recused because NRDC is her "former employer" for purposes of Executive Order 13989, while the other appointee is recused given prior involvement as an employee in a State government. Your restriction is due solely to prior service in discrete and limited situations that are unrelated to FIFRA, TSCA and TRI.

For the two years prior to your EPA appointment, the services you personally provided to NRDC were limited to those Title VI-related FOIA requests. You did not provide advice or counsel to NRDC or otherwise enter into an attorney-client relationship with them and received

no compensation from them. The nature of your previous affiliation with NRDC does not relate in any way to their involvement in non-Title VI matters, such as OCSPP litigation or regulatory actions, arising at EPA. During the time period relevant to Section 1, paragraph 2 of the Ethics Pledge, you had no involvement on behalf of NRDC with the types of litigation PTSLO handles.

CONCLUSION

In your position as the Deputy General Counsel for Environmental Initiatives, you must be able to advise senior leadership, including the Administrator, and provide legal counsel and vital input into the Agency's programs and litigations that address pesticides and toxic chemicals. Your prior involvements with NRDC was limited in scope and focused only on a handful of FOIA requests.

For the reasons set forth above, I grant you a limited waiver of the provisions of Section 1, paragraph 2 of Executive Order 13989 to enable you to effectively carry out your duties as Deputy General Counsel of Environmental Initiatives; to ably advise senior leadership, including the Acting General Counsel, and the Administrator; and to advance the interests of the Agency. The services you provided to NRDC, during the two years prior to your federal appointment were limited to discrete Title VI FOIA requests. I have determined that it is in the public interest for you to participate in certain specific party matters involving this former client due to your critical role and responsibilities associated with PTSLO. I find that the nature of your previous Title VI work should not restrict your ability to provide your legal counsel, vital input, and toxics expertise on litigation related to the Agency's pesticides and toxic chemicals program.

This limited waiver encompasses any such specific party matters arising at EPA where NRDC is a party or represents a party, and you did not previously participate personally and substantially while serving as an attorney for them or any other party. You are allowed to participate in those specific party matters, including meetings or communications relating to your official duties, where NRDC is present. However, you will remain recused from those specific party matters, including Title VI matters and FOIA requests, in which your former client is a party or if you participated personally and substantially previously. This limited waiver does not otherwise affect your obligations to comply with all other applicable federal ethics laws and regulations and provisions of Executive Order 13989, as well as your own attorney bar obligations.

cc: Dana Remus, Counsel to the President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Impartiality Determination to Participate in Certain Specific Party Matters
Involving the Natural Resources Defense Council

FROM: Justina Fugh Digitally signed by Justina Fugh
Date: 2021.06.24
22:33:48 -04'00'
Alternate Designated Agency Ethics Official and
Director, Ethics Office

TO: Marianne Engelman-Lado
Deputy General Counsel for Environmental Initiatives

Prior to entering federal service on January 31, 2021, you directed two environmental justice clinics --first at Yale University and then at Vermont Law School – both of which provided legal services to clients and trained law students in community lawyering and civil rights enforcement. As part of the Vermont Law School environmental justice clinic, you and co-counsel Southern Environmental Law Center (SELC) submitted requests for certain EPA records pursuant to the Freedom of Information Act (FOIA) on behalf of several clients, including the Natural Resources Defense Council (NRDC).

Because NRDC was a “former client” of yours for federal ethics purposes and under Executive Order 13989, you could not participate in any specific party matter involving this entity unless you first sought and obtained ethics approval. The Designated Agency Ethics Official granted you a waiver from the Executive Order on April 14, 2021, and this memorandum formally confirms my impartiality determination granted orally on that same date.

NEED FOR A PLEDGE WAIVER

Pursuant to Executive Order 13989, you signed the Ethics Pledge and are prohibited from participating in specific party matters in which your former employer or former client (as defined in Section 2, paragraphs (k) and (l)) is a party or represents a party. Mindful of the fact that you had previously provided limited legal services to NRDC solely in the context of FOIA, and given the Agency’s interest in having your participation in environmental matters with NRDC that are unrelated to FOIA, the EPA sought a waiver of the provisions of Section 1, paragraph 2 of the Executive Order on your behalf. This limited waiver, which was granted on April 14, 2021, authorized you to participate personally and substantially in specific party matters arising at EPA in which your former client, NRDC, is a party, provided that you did not previously participate personally and substantially in that same matter for NRDC or any other party. *See attachment.*

NEED FOR IMPARTIALITY DETERMINATION

What remains is an impartiality concern under the federal ethics rules set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, Subpart E, “Impartiality in Performing Official Duty.” For one year from the date you last provided services to NRDC, you have a “covered relationship” with them pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). Absent an impartiality determination from me, you still cannot participate in any specific party matter in which NRDC is a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a). Although I granted this determination informally previously, I am confirming it in writing now.

Federal ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee’s participation outweighs concern over the questioning of the “integrity of the agency’s programs and operations.” 5 C.F.R. § 2635.502(d). The factors that EPA takes into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

Because I conclude that the interest of the United States Government in your participation outweighs any concerns about your impartiality, I am authorizing you to participate as Deputy General Counsel for Environmental Initiatives in specific party matters in which NRDC is a party, provided that you did not participate personally and substantially in the matter previously with NRDC or any other party. In making this determination to enable you to effectively carry out your duties as a Deputy General Counsel and to advance the interests of the Agency, I have taken the following factors into consideration:

Nature of the relationship involved – Your career has been devoted to civil rights and environmental justice. After graduating with your B.A. in government from Cornell University, a J.D. from the University of California at Berkeley, and an M.A. in Politics from Princeton University, you served as a staff attorney at the NAACP Legal Defense and Educational Fund, Inc., where you represented clients attempting to break barriers of access to health care and quality education. You also served for ten years as General Counsel at New York Lawyers for the Public Interest (NYLPI), a non-profit civil rights law firm, where you directed a legal and advocacy program addressing racial and ethnic disparities in access to health care, environmental justice, and disability rights. In addition to lecturing and teaching about environmental justice, you also directed environmental justice clinics at Vermont Law School and Yale University.

Throughout your career, you have represented individual clients and nonprofits alike on a broad array of environmental law and environmental justice issues. Although NRDC frequently interacts with the Agency on regulatory matters and in litigation, I note that your own previous affiliation with NRDC was limited in scope. As set forth in the Biden pledge waiver issued on April 14, 2021, your previous service to NRDC was limited to FOIA requests on Title VI inquiries only, not related to any actual or underlying Title VI matters. In fact, you did not otherwise serve as the attorney of record for NRDC. Therefore, your prior relationship with NRDC does not weigh against you for the purposes of this factor.

Effect of the matter upon your financial interest – NRDC did not compensate you directly for your services; instead, any financial remuneration was paid to your former employer, Vermont Law School. You do not have a financial conflict of interest with the Vermont Law School.¹

Nature and importance of the employee's role – In addition to serving as the chief legal advisor to EPA and implementing the nation's environmental laws, the Office of General Counsel also provides legal counsel to EPA policymakers and represents the Agency in defense of agency actions. In the position of a Deputy General Counsel, you must be able to advise senior leadership and provide legal counsel and vital input into the Agency's programs and litigations, including those that address pesticides and toxic chemicals among other areas. Your invaluable knowledge and experience are of great importance in advocating the interests of the Agency and in advising the Acting General Counsel and Administrator.

Sensitivity of the matter – We anticipate that specific party matters in which NRDC is a party and that did not involve you personally and substantially may arise during your EPA tenure that will merit your attention and participation because they raise nationally significant issues.

Difficulty of reassigning the matter to another employee – Although EPA currently has two other political appointees in OGC, both have their own bar and pledge obligations to observe with respect to matters arising in the Office of General Counsel. Consequently, there is an overlap of recusals that is impinging the ability of the Office of General Counsel to interact with its political leadership on certain nationally significant issues related to public health and the environment that are important priorities of the Administration. With respect to the other political appointees, one is recused because NRDC is her "former employer" for purposes of Executive Order 13989, while the other appointee is recused given prior service as an employee in a State government. Your participation as part of your official duties as a Deputy General Counsel is of importance to the continued functioning and continuity of the Office of General Counsel and, therefore, is in the Agency's interests.

Under this limited authorization, you may participate personally and substantially in specific party matters that involve NRDC, so long as they are not the very same specific party matters on which you worked personally and substantially for NRDC or any other party. You will be allowed to participate in these specific party matters, including meetings or communications related to your official duties, where NRDC is present. However, you will

¹ See note to 5 C.F.R. § 2640.201(c).

remain recused from those specific party matters, including Title VI matters and FOIA requests, in which your former client is a party or if you participated personally and substantially previously. You will otherwise fully comply with the remainder of the requirements imposed by the Executive Order 13989 and with all applicable federal ethics laws and regulations, as well as your own attorney bar obligations.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact me at fugh.justina@epa.gov or (202) 564-1786.

Attachment

cc: Melissa Hoffer, Acting General Counsel
Dimple Chaudhary, Deputy General Counsel for Nationwide Resource Protection
Jim Payne, Deputy General Counsel for Environmental Media and Regional Law Offices
Elise Packard, Deputy General Counsel for Operations Programs
OGC Associates and Directors
Regional Counsels
Daniel Conrad, Acting Associate Deputy General Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

MEMORANDUM

DATE: September 20, 2022

SUBJECT: Recusal Statement

FROM: Sanjay Seth

Chief of Staff and Senior Advisor for Climate and Equity

TO: David W. Cash
Regional Administrator

Seth, Sanjay

Digitally signed by Seth, Sanjay
Date: 2022.09.20 14:42:54
-04'00'

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This recusal statement formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Particular Matters Involving Specific Parties

Given the value of my financial interests, I am disqualified from participating personally and substantially in any particular matter that will have a direct and predictable effect upon any of the following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS
Apple Inc.
UnitedHealth Group, Inc.

Particular Matters of General Applicability

Because of the current level of my financial ownership, I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST –SECTORS	
Software & Services	Computer & Electronics Retail
Technology Hardware & Equipment	Media & Entertainment
Semiconductors	

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

As an executive branch employee in an Administratively Determined position, I understand that I am subject to the federal impartiality standards and have a “covered relationship” with any former employer. Therefore, I may not participate in a particular matter involving specific parties in which the **Harvard Alumni for Climate and the Environment** is a party or represents a party, unless I am authorized to participate by an ethics official pursuant to 5 C.F.R. § 2635.502(d). My recusal lasts until after June 30, 2023, which is one year from the date of my final resignation.

On August 11, 2022, the EPA’s Alternate Designated Agency Ethics Official issued an impartiality determination that authorizes me to participate in particular matters that involve the **City of Boston**, but not on any of the same specific party matters I previously worked on personally and substantially while employed with the City. *See* attached impartiality determination.

DIRECTIVE AND CONCLUSION

To ensure that I do not participate in any particular matters from which I am recused, please refer those matters to the attention of the Deputy Regional Administrator, without my knowledge or involvement. Therefore, I should not be sent or copied on substantive emails, attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to the Region’s ethics team or OGC/Ethics. In the event that my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, then I will consult with OGC/Ethics and update my recusal statement accordingly.

Attachment

cc: Deborah Szaro, Deputy Regional Administrator
Carl Dierker, Regional Counsel
LeAnn Jensen, Regional Ethics Counsel
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

August 11, 2022

MEMORANDUM

SUBJECT: Impartiality Determination to Participate in Certain Matters Involving the City of Boston

FROM: Justina Fugh **JUSTINA FUGH**
Alternate Designated Agency Ethics Official and
Director, Ethics Office

TO: Sanjay Seth
Chief of Staff and Senior Advisor for Climate and Equity
Region 1

Digitally signed by
JUST NA FUGH
Date: 2022.08.11
11:54 03 -04'00'

As Chief of Staff and Senior Advisor for Climate and Equity for the United States Environmental Protection Agency (EPA) Region 1, you seek permission to participate in specific party matters involving the City of Boston. Within the last year, prior to being selected for this position, you served as Climate Resilience Manager for the City of Boston's Environment Department.

I understand that you are not vested in any defined benefit plan with the City of Boston so you do not have any financial conflict of interest. What remains is an impartiality concern under the federal ethics rules set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Upon assuming the position of Chief of Staff and Senior Advisor for Climate and Equity, you have a "covered relationship" with your former employer, the City of Boston, pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). For one year after you resigned from the City of Boston, which was July 7, 2022, absent an impartiality determination from an EPA ethics official, you cannot participate in any specific party matter in which the City of Boston is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a). This cooling off period ends on July 7, 2023.

Federal ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee's participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d). The factors that the Agency takes into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

In reviewing these factors, I have concluded that the interest of the United States Government in your participation outweighs any concerns about your impartiality, and I am authorizing you to participate as Chief of Staff and Senior Advisor for Climate and Equity in particular matters that involve the City of Boston with the following limitation: you must recuse yourself from participation in specific party matters in which you participated personally and substantially while employed with the City of Boston. In making this determination, I have taken the following factors into consideration:

Nature of the relationship involved – From October 2020 to July 2022, you served as Climate Resilience Program Manager for the City of Boston's Environment Department. In this role, you lead the climate resilience and adaptation portfolio for the City of Boston. Sensitivities regarding your impartiality will necessarily revolve around the issues in which you participated personally and substantially for the City of Boston. States and local governments share responsibility with EPA in protecting human health and the environment. With respect to many of our statutes, EPA has directly delegated states with regulatory and enforcement authority. In fact, EPA, through its regions, works closely and directly with state and local governmental entities on a continuing and frequent basis.

Effect of the matter upon your financial interest – You are not vested in any defined benefit plan with the City of Boston so do not have any financial conflict of interest pursuant to 18 U.S.C. § 208.

Nature and importance of the employee's role – As Region 1's Chief of Staff and Senior Advisor for Climate and Equity, your area of responsibility covers Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, Vermont, and 10 Tribal Nations. In your role, you are expected to communicate freely with all of the cities, states, and tribes in your Region, including the City of Boston.

Sensitivity of the matter – We anticipate that there will be specific party matters in which you did not participate personally and substantially for the City of Boston that will rise to your level of attention, merit your participation and raise nationally significant issues.

Difficulty of reassigning the matter to another employee – Your participation as Chief of Staff and Senior Advisor for Climate and Equity in such matters will be of importance to the Regional

Administrator, and therefore in the Agency's interests. In these situations, it may not be appropriate to reassign the matter to another employee.

Under this limited authorization, you are authorized to participate in specific party matters that involve the City of Boston, but not on the very same specific party matters on which you worked on personally and substantially while employed by the City. In the event that EPA believes it has a compelling reason for your participation as an EPA official on any of those same specific party matters that you participated in personally and substantially, then you are advised to consult with an ethics official to reconsider the factors and information listed above on a case-by-case basis. Unless and until you receive written authorization, you must continue to recuse yourself from those matters in which you had previously participated while an ethics official considers whether the Agency's interest in your participation outweighs any impartiality concern. This determination will remain in effect for the remainder of your cooling off period.

While I have issued you this determination to interact with the City of Boston with the limitation described above, you may wish to make adjustments to your duties to not participate in a particular matter that involves the City as a specific party. Nothing in this impartiality determination precludes you from making additional adjustments to your duties, such as voluntarily recusing from other matters, although you are advised to consult with an ethics official should such a circumstance arise.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact me at fugh.justina@epa.gov or (202) 564-1786.

cc: David W. Cash, Regional Administrator, Region 1
Deborah Szaro, Deputy Regional Administrator, Region 1
Carl Dierker, Regional Counsel, Region 1
LeAnn Jensen, Regional Ethics Counsel, Region 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, DC

MEMORANDUM

TO: Rosemary Enobakhare, Associate Administrator
Office of Public Engagement and Environmental Education
Office of the Administrator

FROM: Vanessa Millán, Public Engagement Specialist

SUBJECT: Recusal Statement

VANESSA
MILLAN

Digitally signed by
VANESSA M LLAN
Date: 2022.09.09
10:24:23 -04'00'

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum states my recusal obligations to include my obligations under the Biden Ethics Pledge.

FINANCIAL CONFLICTS OF INTEREST

As required by the criminal conflict of interest law, 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on my financial interests or the financial interests of a person whose interests are imputed to me unless I first obtain a written conflict of interest waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). The interests of the following persons are imputed to me: my spouse or my minor child; a general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment. I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflict of interest. I will remain vigilant and notify OGC/Ethics should my financial interests change.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality regulations at 5 C.F.R. § 2635.502(b), I have a “covered relationship” with my former employer, the consulting firm of **Con Cultura, LLC** for one year after I last served as the sole member. In addition, my spouse is now the sole member of the LLC, so, therefore, I may not participate personally and substantially in any particular matter involving specific parties in which **Con Cultura, LLC** is a party or represents a party for one year after I last served as a member, or until my spouse is no longer serving as a member, whichever is longer, unless I am otherwise authorized to participate pursuant to the standards in 5 C.F.R. § 2635.502(d).

OBLIGATIONS UNDER EXECUTIVE ORDER 13989 (The Biden Ethics Pledge)

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any matter involving specific parties in which any of my former clients is a party or represents a party. I understand that my recusals regarding these entities will last for two years from the date that I joined federal service and will end on **August 15, 2024**.

The relevant former clients include:

- Partnership Project/Climate Action Campaign
- Conservation Colorado
- GreenLatinos
- Hispanic Access Foundation
- New Leaders Council/National
- Refugee and Immigrant Center for Education and Legal Services (RAICES)
- Voces Unidas de Las Montañas

For the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

DIRECTIVE AND CONCLUSION

In order to ensure that I do not participate in particular matters from which I am recused, I am asking **Avivah Jakob, Acting Director, Office of Public Engagement** to act on such matters without my knowledge or involvement. Therefore, please do not send or copy me on substantive emails, request that I attend meetings, participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to OGC/Ethics at ethics@epa.gov.

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

¹ See OGE Advisory DO-09-011 (3/26/09).

cc: Avivah Jakob, Acting Director, Office of Public Engagement
Loni Cortez-Russell, Deputy Associate Administrator, Office of Public Engagement and
Environmental Education
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Victoria Arroyo **VICTORIA ARROYO**
Associate Administrator
Office of Policy

Digitally signed by
VICTORIA ARROYO
Date: 2022.09.02
12:40:17 -04'00'

TO: Michael S. Regan
Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and President Biden's Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by the criminal conflict of interest statute, 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been advised by OGC/Ethics that I have a financial interest in the **Georgetown University School of Law** in Washington, DC from which I have taken a two-year unpaid leave of absence that expires on or about January 20, 2023. I will not participate personally and substantially in any particular matter that, to my knowledge, has a direct and predictable effect on the financial interests of Georgetown University School of Law unless I first obtain a written waiver or my participation is permitted by a regulatory exemption, including the exemption for employees on leave from institutions of higher learning allowing participation in certain matters of general applicability at 5 C.F.R. § 2640.203(b). This latter exemption allows me to participate

in a particular matter of general applicability, such as a rulemaking, so long as it does not have a distinct effect on the institution other than as part of class.

Particular Matters Involving Specific Parties

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects any of following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS	
Becton Dickinson	Howmet Aerospace
Boeing	Target
Coherent	

Particular Matters of General Applicability

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – INDIVIDUAL SECTORS	
Health Care Equipment, Supplies and Technology	Aerospace and Defense manufacturing
Retailing	Laser technology and manufacturing

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

In addition to my financial conflict of interest, pursuant to the federal impartiality standards at 5 C.F.R. § 2635.502(a), I understand that I also have a “covered relationship” with **Georgetown University School of Law** for the period of my leave of absence and for one year thereafter. Therefore, I may not participate in a particular matter involving specific parties in which any of this entity is a party or represents a party during the time period of my recusal, unless I am authorized to participate by OGC/Ethics pursuant to 5 C.F.R. § 2635.502(d).

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Josh Lewis, Chief of Staff, to assist in screening EPA matters directed to my attention that involve Georgetown University School of Law or any entity from which I am recused. All inquiries and comments involving the entities or issue areas on my recusal list should be directed to the Chief of Staff without my knowledge or involvement.

If the Chief of Staff determines that a particular matter will directly involve any of the entities or issue areas on my recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates and a copy to Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Janet McCabe, Deputy Administrator
Dan Utech, Chief of Staff
Philip Fine, Principal Deputy Associate Administrator
Helena Wooden-Aguilar, Deputy Associate Administrator
Justina Fugh, Director, Ethics Office

From: [Fugh, Justina](#)
To: [Giles, Cynthia](#)
Cc: [Griffo, Shannon](#)
Subject: approval of your outside activity request
Date: Thursday, September 22, 2022 11:20:06 AM

Hi Cynthia,

My apologies for neglecting your email. I was off work for about a week right as you sent the message, then got buried in reentry. Thank you for asking Shannon to remind me (though she had to do so a couple of times). With regard to this request for approval of outside activity, I confirm that I did not hear from Joe Goffman as your next level supervisor, which is correct since he is recused from participating in specific party matters involving his former employer, Harvard University. **I am approving your request for outside activity** without needing his concurrence. You may proceed with speaking to Harvard and UPenn about your book, *Next Generation Compliance: Environmental Regulation for the Modern Era*, published by Oxford University Press. Please note that this approval extends to any other similar requests you may receive from universities or academic institutions. If, however, you are asked to speak about your book before other audiences, such as nonprofits or professional societies, then please submit a request for OGC/Ethics review and approval.

You have already indicated that you will not use EPA time or resources for these discussions, and I expect that Shannon has provided you with general counseling advice. In addition, please do not use nor allow the use of your EPA affiliation solely in connection with the outside activity. You may either refrain from mentioning your current EPA position entirely or, if you include it, then be sure to also mention at least two other significant biographical details with EPA not having any undue prominence, and please include a disclaimer that makes clear that you are not representing EPA. If you are offered travel expenses for any of these speeches, then you may accept them in your personal capacity. Please note, however, that you should track those travel expenses for possible reporting on your financial disclosure reports. You will be required to report any gift, including travel, from any non-federal entity that exceeds \$415 (though you may exclude in the aggregation any individual gift from that same source that is \$166 or less).

Sorry again for my delay in responding, but please let Shannon or me know if you have any questions.

Justina

Justina Fugh (she/her) | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 | phone 202-564-1786

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Saturday, September 3, 2022 12:34 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Outside activity approval request

Justina – I am submitting an outside activity approval request per the advice of Shannon. I am copying Joe because the reg says that the supervisor should be copied for their information.

Outside activity approval request

Requestor: Cynthia Giles, Senior Advisor, Office of Air and Radiation

Nature of the outside activity: speaking to outside groups, including academic classes on regulatory policy, about my book: *Next Generation Compliance: Environmental Regulation for the Modern Era*, published by Oxford University Press. There will be no compensation for any of these activities, although some may reimburse travel costs, if any.

Name of the organization for which the work will be done: The currently pending requests are from Harvard University School of Law and the University of Pennsylvania School of Law. I expect to receive other requests to speak on the book in academic and possibly other forums.

Estimated time to devote to the activity: For virtual events, the time devoted would be an hour per event. For events that require travel, the time would increase to include travel.

Outside of duty hours: Most speaking events would likely be within work hours. I expect to take vacation time to participate in those activities, and if travel is involved would also take vacation time for the necessary travel. If during work hours, I would conduct the virtual sessions from my home, rather than from the office. I would not schedule such events in a way that would interfere with performance of my work duties and would not expect to have more than two such events a month (if virtual) and less than 1 per month for in person.

No official duty time or Government property, resources, or facilities will be used in connection with these speaking opportunities.

The only potential compensation is reimbursement of travel expenses if there are any.

I have read and am familiar with and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and 5 CFR sec. 6401.103 (EPA's Supplemental Regulations).

I am not aware of any EPA assistance agreements or contracts held by either of the two institutions with pending speaking requests. For any future speaking requests, I can inquire if they have any such agreements or contracts, and if they do, contact you before agreeing to speak. Likewise, I would not accept any speaking request from any entity regulated by EPA or that has substantial interests in matters before EPA without first checking with EPA ethics.

Thank you for considering this request.

Cynthia